

S.B. CIVIL WRIT PETITION NO. 5382/2007.

**RAMESH CHANDRA MALOO
VS.
SMT. INDRA JETAWAT & ORS.**

DATE OF ORDER : 11.10.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Deelip Kawadia for the petitioner.

The Motor Accident Claims Tribunal, Udaipur, while disposing of an application preferred to re-call the order for proceeding ex parte against the petitioner, passed an order on 21.08.2006 in following terms:

"वकील प्रार्थीगण उपस्थित। पी शर्मा उपस्थित। विपक्षी नं. 2 की ओर से श्री पी शर्मा ने वकालतनामा पेश कर जवाब का अवसर चाहा व एक तरफा का आदेश निरस्त करने की प्रार्थना की नकल वकील प्रार्थीगण को दी बहस सुनी विपक्षी नं. 2 से इसी आशय की दरखास्त पर दिनांक 21/10/03 को विस्तृत आदेश पारित किया जा चुका है। ज्यादा से ज्यादा विपक्षी को इस स्टेज व इससे आगे की कार्यवाही में भाग लेने की अनुमति दी जाती है साक्ष्य विपक्षी बीमा कम्पनी उपस्थित नहीं वास्ते साक्ष्य विपक्षीगण दिनांक 5/9/06 को पेश हो।

न्यायाधीश
एम.ए.सी.टी.उदयपुर"

An application subsequent thereto was filed seeking permission to lead evidence, but the same was rejected by an order dated 03.01.2007 on the count that a permission to lead evidence cannot be granted without having pleadings in support to which such evidence is required. Being aggrieved by the same, this petition for writ is preferred.

The contention of counsel for the petitioner is that in pursuant to the order dated 21.08.2006, learned Tribunal should have given a permission to the petitioner to file a return to the claimant and also to lead evidence in defence.

I do not find any substance in the contention so raised. By the order dated 21.08.2006, learned Tribunal allowed the petitioner to participate in the proceedings from the stage then existing. The matter at that time was fixed for leading evidence in defence. The evidence of the claimant was already concluded. The petitioner never assailed validity of the order dated 21.08.2006, as such the participation of the petitioner in the proceedings was with regard to advance arguments only. In the factual background as above, the learned Tribunal rightly rejected the application preferred by the petitioner by holding that no evidence can be permitted to be adduced without having adequate pleadings in that regard.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR)J.